

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

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UNITED STATES OF AMERICA

v.

ALKIS NAKOS

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14-CR-93-01-LM
August 24, 2015
1:20 p.m.

TRANSCRIPT OF JURY TRIAL
DAY FIVE - AFTERNOON SESSION
BEFORE THE HONORABLE LANDYA B. MCCAFFERTY

APPEARANCES:

For the Government:

Terry L. Ollila, AUSA
U.S. Attorney's Office

For the Defendant:

Robert L. Sheketoff, Esq.
Law Office of Robert L. Sheketoff

Court Reporter:

Susan M. Bateman, LCR, RPR, CRR
Official Court Reporter
United States District Court
55 Pleasant Street
Concord, NH 03301
(603) 225-1453

I N D E X

WITNESSES: Direct Cross Redirect Recross

DAVID SWEENEY:

(Transcribed previously under separate cover)

ALLISON OUELLETTE:

By Ms. Ollila 3
By Mr. Sheketoff 7

STEVEN PUOPOLO:

By Ms. Ollila 14
By Mr. Sheketoff 19

ERIC PICHE:

By Ms. Ollila 35 60
By Mr. Sheketoff 53 61

EXHIBITS:

FOR ID

IN EVD

Government's Exhibit Nos. 51h-51l		32
Government's Exhibit No. 60b		38
Government's Exhibit No. 60j		40
Government's Exhibit No. 60p		50

1 P R O C E E D I N G S

2 (Testimony of David Sweeney transcribed previously
3 under separate cover)

4 THE COURT: All right. Mr. Sweeney, you may step
5 down.

6 Government, call your next witness.

7 MS. OLLILA: The United States calls Allison
8 Ouellette.

9 ALLISON OUELLETTE

10 having been duly sworn, testified as follows:

11 THE CLERK: For the record, would you please state
12 your name and spell your last name.

13 THE WITNESS: Allison Ouellette, O-U-E-L-L-E-T-T-E.

14 DIRECT EXAMINATION

15 BY MS. OLLILA:

16 Q. Good afternoon, Ms. Ouellette. I am very sorry
17 that you have to be here today. Let me ask you to pull up in
18 your chair as much as possible and try to speak loudly.
19 Would you like some water?

20 A. No, thank you.

21 Q. Okay. Do you know Alkis Nakos, Ms. Ouellette?

22 A. I do.

23 Q. Do you see him in the courtroom today?

24 A. I do.

25 Q. Could you please point to him and describe an

1 article of clothing that he's wearing?

2 A. He's seated over there with the red and gray tie
3 on.

4 MS. OLLILA: May the record reflect that the
5 witness has identified the defendant, Alkis Nakos?

6 THE COURT: Yes.

7 A. I'm sorry.

8 (Witness crying)

9 Q. How do you know Alkis Nakos, Ms. Ouellette?

10 A. I've known him since I was 15.

11 Q. Were you with him for a period of your life, Ms.
12 Ouellette?

13 A. Yes.

14 Q. Did you stay with him while he was in prison?

15 A. We were friends, yes.

16 Q. Were you with him after he was released?

17 A. Yes.

18 Q. Did you live with him for a period of time?

19 A. Yes.

20 Q. Where did you live?

21 A. We lived at Pine Street together in separate units
22 and we lived together at Washington Park, and then we bought
23 a home together at 366 Arah Street.

24 Q. How long did you stay with Mr. Nakos?

25 A. I don't know the exact time frame. Four or five

1 years.

2 Q. Do you recall when you two parted ways?

3 A. I moved out in November of 2009.

4 Q. Why did you move out?

5 A. Our relationship just wasn't going any further.

6 Q. Do you know someone by the name of Mike Leventis?

7 A. Yes.

8 Q. How do you know Mr. Leventis?

9 A. I met him a couple times.

10 Q. Where did you meet him a couple times?

11 A. I went to Canada with Alkis a few times.

12 Q. How many times is a few times?

13 A. I don't know exactly. Maybe four or five.

14 Q. Okay. And you -- where did you go with Mr. Nakos?

15 A. We went -- we would go to dinner. We went to a
16 hockey game or a sporting event.

17 Q. When you saw Mike Leventis on the four or five
18 times you saw him, was it always in Canada?

19 A. I believe so, yes.

20 Q. Did you ever -- if you remember, Ms. Ouellette, you
21 may not remember -- did you ever see Mike Leventis in New
22 Hampshire?

23 A. I don't recall, no.

24 Q. Do you know Mr. Leventis's heritage?

25 A. I don't.

1 Q. His nationality, what language did he speak?

2 A. I believe he was Greek.

3 Q. Okay. Did you ever hear Mr. Nakos speak Greek to
4 Mr. Leventis?

5 A. I don't know if it was him or not.

6 Q. Okay. When you were in Canada with Alkis Nakos and
7 Mr. Leventis was there, would they speak English?

8 A. Yes.

9 Q. Did they ever speak Greek in Canada?

10 A. Not that I remember, no.

11 Q. Okay. You said that you left in November of 2009;
12 is that correct?

13 A. (Nods affirmatively.)

14 Q. Before you left did you ever know Alkis Nakos to
15 gamble?

16 A. I wouldn't call him a gambler, no.

17 Q. Did you ever know him to win money?

18 A. A couple times we went to Foxwoods.

19 Q. Okay. And how much money would he win?

20 A. Not very much. A couple thousand. He put a \$20
21 bill in once and got 1300, so it's not like -- it wasn't
22 large amounts.

23 Q. So you've known Mr. Nakos for a very long time,
24 correct?

25 A. (Nods affirmatively.)

1 Q. Now, in the 2000s, maybe 2008, 2009, when you were
2 with him, Amory Street Pizza actually sold pizza, right?

3 A. Uh-huh.

4 Q. And you were there, right?

5 A. Yes.

6 Q. And they had food there, right?

7 A. Yes.

8 Q. After you and Mr. Nakos parted ways did you know
9 much about what happened in his life?

10 A. No.

11 Q. Did you stay in contact with him much?

12 A. Occasionally if there was a piece of mail or if we
13 had a question, we would talk.

14 Q. Did you know anything about money he had?

15 A. No.

16 Q. Did you ever talk about money together when you
17 were together?

18 A. No.

19 Q. Did you keep your financial affairs separate?

20 A. Yes.

21 MS. OLLILA: Nothing further, Judge.

22 THE COURT: Anything, Attorney Sheketoff?

23 MR. SHEKETOFF: Thank you, your Honor.

24 CROSS-EXAMINATION

25 BY MR. SHEKETOFF:

1 Q. Good afternoon. It's fair to say that you still
2 have great affection for him, correct?

3 A. Yes.

4 Q. The thought of being used as a witness against him
5 is very difficult for you, correct?

6 A. Yes.

7 Q. During the course of your relationship with him you
8 had a good relationship, correct?

9 A. Yes.

10 Q. You felt that he was honest with you, correct?

11 A. Yes.

12 Q. Did you ever see anything that he did that made you
13 suspect that he was involved in an ongoing drug organization
14 or drug business?

15 A. No.

16 Q. At some point after living together in two separate
17 places you guys decided to buy a house, correct?

18 A. Yes.

19 Q. And it was at Arah Street?

20 A. Yes.

21 Q. Was that a no-money-down purchase?

22 A. We did not put any money down.

23 Q. You had to take out a mortgage?

24 A. Correct.

25 Q. Now, at the time what were you doing for a living?

1 A. I was a district manager for General Nutrition
2 Center, known as GNC.

3 Q. And as a district manager, what were your
4 responsibilities?

5 A. I had to oversee multiple stores, cash audits,
6 merchandise, managers, basically making sure that those
7 stores ran to the best of their ability.

8 Q. All right. And what was your educational
9 background?

10 A. I graduated high school.

11 Q. All right. Now, what do you do today?

12 A. I'm a personal banker at a financial institution.

13 Q. And since graduating high school -- what year did
14 you graduate high school?

15 A. '97.

16 Q. Since then you've been gainfully employed?

17 A. Yes.

18 Q. Do you have any criminal record of any kind?

19 A. Absolutely not.

20 Q. Were you caught for speeding?

21 A. I'm sorry?

22 Q. Were you ever caught for speeding?

23 A. Yes.

24 Q. How about following too closely? Just kidding.

25 A. Sorry. (Laughing.)

1 Q. So you put your name on the mortgage, too?

2 A. Yes.

3 Q. And who was the bank that gave you guys the
4 mortgage?

5 A. I have no idea.

6 Q. You don't remember?

7 A. That was so long ago.

8 Q. How big was the house?

9 A. Three bedrooms.

10 Q. What would you say in square feet, 2,000, 4,000,
11 6,000?

12 A. No. Under 1500, I believe.

13 Q. And was it beautifully furnished?

14 A. No.

15 Q. On several occasions you recall going to Canada and
16 meeting someone by the name of Mike Leventis, correct?

17 A. Yes.

18 Q. And you would meet him and you would go to dinner,
19 you would go to hockey games or other sporting events and
20 things of that nature, correct?

21 A. Yes.

22 Q. Ever hear any conversation between him and my
23 client about drugs?

24 A. No.

25 Q. Did they ever leave you and have private

1 conversations?

2 A. Not to my knowledge.

3 Q. And how did you guys enter Canada on those
4 occasions?

5 A. Through the border.

6 Q. With a passport?

7 A. Correct.

8 Q. Together?

9 A. Uh-huh.

10 Q. Would you drive or would you fly?

11 A. Drive.

12 Q. All right. During 2008 and 2009, to the best of
13 your knowledge he was working at the pizza shop, correct?

14 A. Correct.

15 Q. You knew his dad. It was his business, correct?

16 A. Correct.

17 Q. You knew his mom?

18 A. Yes.

19 Q. She did not work at that business?

20 A. No.

21 Q. Do you know what she did?

22 A. Nope.

23 Q. Did she approve of you even though you weren't
24 Greek?

25 A. In the very beginning of our friendship there was

1 some turmoil, but that was over 15 years ago.

2 Q. Did you ever eat at the pizza shop?

3 A. Yes.

4 Q. Did he ever cook at the pizza shop?

5 A. Yes.

6 Q. Was he the worst pizza chef ever?

7 A. I'm sorry?

8 Q. Was he the worst pizza chef ever?

9 A. No. Actually the opposite.

10 Q. You thought his pizza was really good?

11 A. Yeah.

12 Q. Did you ever pitch in and help there?

13 A. Absolutely.

14 Q. Would you describe it as a neighborhood bar?

15 A. Yeah.

16 Q. Were there a lot of people that came in there again
17 and again and again, the same people, I mean?

18 A. Yes.

19 Q. All seemed to know each other?

20 A. Yes.

21 Q. And to the best of your knowledge they lived in the
22 neighborhood?

23 A. Yes.

24 Q. Did you know Nicholas Champagne?

25 A. Yes.

1 Q. Was he close friends with Alkis Nakos?

2 A. Yes.

3 Q. Would he come to your house?

4 A. Not often, no.

5 Q. Did you ever hear the two of them engage in a
6 conversation about drugs?

7 A. No.

8 Q. I'm not asking you what your opinion is, but do you
9 have an opinion about him, Mr. Champagne?

10 A. I wouldn't have an opinion, no.

11 Q. How about Kosmas Koustas, did you know him?

12 A. I do.

13 Q. And how did you know him?

14 A. We all grew up together.

15 Q. And where was that?

16 A. We all met around the same age, when we were 15,
17 and just hung out mostly when we were kids, growing apart as
18 we got older.

19 Q. Do you know if Kosmas Koustas was ever at your
20 house -- wherever you were living with my client, was he ever
21 there before you left in November of 2009?

22 A. He was not there to my knowledge.

23 Q. Do you know whether or not they had had a falling
24 out to your knowledge prior to -- well, during the period of
25 time while you were living together?

1 A. They were not in good standing or in contact to my
2 knowledge. They did not conversate.

3 MR. SHEKETOFF: Nothing further.

4 MS. OLLILA: Nothing further.

5 THE COURT: Thank you. You may step down.

6 MS. OLLILA: The United States calls Steve Puopolo.
7 Your Honor, I have failed to introduce Dena Blanco.
8 She is from the U.S. Attorney's Office assisting us.

9 STEVEN PUOPOLO

10 having been duly sworn, testified as follows:

11 THE CLERK: For the record, please state your name
12 and spell your last name.

13 THE WITNESS: Steven Puopolo. Last name is
14 P-U-O-P-O-L-O.

15 DIRECT EXAMINATION

16 BY MS. OLLILA:

17 Q. Good afternoon. How are you employed?

18 A. I'm a trooper with the New Hampshire State Police
19 presently assigned as a detective with the Narcotics
20 Investigations Unit.

21 Q. Were you so assigned during October, November and
22 December of 2013?

23 A. Yes.

24 Q. Were law enforcement up on a wire during those
25 months?

1 A. We were.

2 Q. Were you assisting law enforcement with the
3 conducting of surveillance during the course of that wire?

4 A. I was.

5 Q. Were you conducting surveillance on December 5,
6 2013?

7 A. Yes.

8 Q. And can you tell the ladies and gentlemen of the
9 jury what your role was and what you saw.

10 A. In the evening hours of that day I was assigned as
11 a surveillance personnel to respond to the employed location
12 of Mr. Kosmas Koustas, which was Foodtec Solutions, a food
13 company.

14 Q. Was that in Needham, Massachusetts?

15 A. It was.

16 Q. And did you do that?

17 A. I did.

18 Q. And what did you see?

19 A. During that period of time I was tasked with
20 maintaining a stationary surveillance location inside the
21 garage of the building, the garage being directly attached to
22 the office portion of the building. To access one you needed
23 to access the other.

24 During that period of time my vehicle was parked
25 stationary. I saw Mr. Koustas exit the building and walk

1 over to a black four-door Honda Accord that was parked
2 adjacent to me with one empty parking spot between us to the
3 left of me.

4 Q. Could he see you in your motor vehicle?

5 A. I was leaning further back in my seat. If he had
6 looked in the vehicle, it was plain that there was a person
7 there.

8 Q. Okay. So what happened? What did you see?

9 A. At that period of time he walked to the rear of his
10 vehicle, opened up the trunk, took out a black
11 leather-looking gym bag and walked over to the rear driver's
12 side door of his vehicle, opened the door of the vehicle and
13 put the bag inside, and then went back to the trunk, picked
14 out a cardboard box and then brought that to the rear of the
15 vehicle as well and put it in the passenger side of the
16 vehicle.

17 Q. What was your role after that with surveillance?

18 A. When he exited the vehicle, I called out what I
19 could make of the license plate of the vehicle to the
20 surveillance units, and I remained in the garage until he
21 departed at which time the other surveillance units picked up
22 surveillance of him.

23 Q. Did you ever pick up surveillance again that night?

24 A. On that night, I did not. No.

25 Q. What about on December 7, 2013? Were you tasked

1 with engaging in surveillance?

2 A. I was. On that evening the personnel manning the
3 wire, the telephone intercept, they received notification
4 that Mr. Koustas was going to be traveling to Millbury,
5 Massachusetts, to meet an unknown male individual.

6 During that time surveillance units were tasked to
7 go out there and subsequently intercept the meet or observe
8 the meet.

9 During that time Mr. Koustas arrived on scene
10 driving the same black four-door Honda Accord that he had
11 been driving the day before. He arrived at a mall known as
12 the Shoppes at Blackstone. It's a large outdoor mall, but
13 there's no indoor venue to it.

14 And he subsequently met up with a person driving a
15 foreign import, I think it was a Subaru station wagon, a
16 blue/green color. From there he had followed that individual
17 to a residence in Millbury on Colbrook Street where we
18 maintained surveillance contact with him for an extended
19 period of time.

20 Q. What's that mean, an extended period of time?

21 A. Well, you know, maybe greater than fifteen minutes
22 but less than two hours. The period of time would -- you
23 would count it as time out of your day like.

24 Q. So what did you observe after Mr. Koustas arrived
25 at 4 Colbrook Road in Millbury, Massachusetts?

1 A. I was assigned -- he had pulled in the driveway
2 there along with the black -- I'm sorry, the green,
3 blue/green import station wagon type vehicle, and we had made
4 -- and I had made several passes by the location during that
5 period of time to --

6 Q. Why? Why did you do that?

7 A. To make sure he was there and to try to get a
8 vantage point onto the goings on at that location. It's
9 not -- for surveillance techniques, we don't remain
10 stationary if we don't need to in one location because it's
11 out of the ordinary if you were to see somebody sitting on
12 your street.

13 He subsequently left there and drove back the way
14 that he had come in, and then traveled up on the highway
15 through Worcester and subsequently to New Hampshire.

16 Q. Which leads me to my next question. Millbury,
17 Massachusetts, is that right next to Worcester,
18 Massachusetts?

19 A. It's an outskirt town.

20 Q. And you said he traveled back to, where did he go?

21 A. He went to Manchester, New Hampshire, after that.

22 Q. Where in Manchester, New Hampshire?

23 A. 140 South Porter Street.

24 Q. Did you conduct any additional surveillance that
25 night from 140 Porter Street? Did you observe Kosmas Koustas

1 travel anywhere else?

2 A. He stayed at 140 South Porter Street for a period
3 of time, and then he left there and went to 366 Arah Street
4 in Manchester.

5 Q. Do you know who lives at 366 Arah Street in
6 Manchester?

7 A. The defendant, Alkis Nakos.

8 Q. What time did Kosmas Koustas get to 366 Arah Street
9 in Manchester on December 7th?

10 A. In the vicinity of 9, 10 o'clock at night. In that
11 area.

12 MS. OLLILA: I have nothing further of this
13 witness, your Honor.

14 THE COURT: Mr. Sheketoff.

15 CROSS-EXAMINATION

16 BY MR. SHEKETOFF:

17 Q. Good afternoon, Trooper.

18 A. Good afternoon.

19 Q. So on December 7th, when Kosmas Koustas returned to
20 New Hampshire and drove up to 140, you saw him park the
21 vehicle?

22 A. Yes.

23 Q. And 140 is his dad's residence, as you understand
24 it?

25 A. 140 is the residence I think of Andreas. It was

1 Andreas Koustas. A relative.

2 Q. A relative.

3 A. Is what we know.

4 Q. Okay. Did you see him take anything out of the
5 vehicle?

6 A. I did not personally, no.

7 Q. Do you know -- were you the only trooper doing
8 surveillance?

9 A. No. There were several of us. Upwards of ten, I
10 believe.

11 Q. Do you know if anyone claims that they saw him take
12 anything out of his vehicle, just a yes or a no?

13 A. No.

14 Q. And then he went to my client's house directly from
15 140?

16 A. Yes.

17 Q. And did you see him park?

18 A. Over the radio I heard the transmissions that he
19 had exited his vehicle, walked up the driveway, and that a
20 surveillance motion light had gone on at the rear of the
21 residence.

22 Q. Okay. Do you know if anyone saw him take anything
23 into the defendant's house?

24 A. Not that I know of, no.

25 MR. SHEKETOFF: Thank you, sir.

1 MS. OLLILA: Nothing further. Thank you.

2 THE COURT: All right. Thank you, Trooper. You
3 may step down.

4 MS. OLLILA: Your Honor, the United States calls
5 its last witness, New Hampshire State Police Trooper Eric
6 Piche.

7 THE COURT: We're very close to an afternoon break,
8 so how long will this witness be?

9 MS. OLLILA: 15, 20 minutes.

10 THE COURT: All right. Why don't we take an
11 afternoon break before we hear from the last witness.

12 MR. SHEKETOFF: May we see you just briefly, your
13 Honor, about this witness?

14 THE COURT: You may. Let's let the jury exit.

15 (IN COURT - NO JURY PRESENT)

16 MR. SHEKETOFF: So I believe this witness is going
17 to talk about what was seized from my client's home, and I
18 can't tell, I'm not sure if the government intends to put on
19 the actual documents from the Koustas discovery.

20 MS. OLLILA: Oh, no.

21 MR. SHEKETOFF: No?

22 MS. OLLILA: It's exactly what I've shown you when
23 you came to review the exhibits at the U.S. Attorney's
24 Office.

25 There were 1500 pages of discovery, Judge, and what

1 I've advised defense counsel is that I didn't print out those
2 1500 pages. In fact, I told him I could certainly do so.
3 But what I am introducing is the book marked pages, and you
4 can see very clearly it's discovery pages 1 through 597. And
5 I've shown this to defense counsel. I'm not introducing the
6 actual discovery, because frankly I believe it will be
7 prejudicial to this defendant. So I'm introducing the record
8 of the receipt by this defendant of the discovery.

9 You've already seen this, counsel.

10 THE COURT: Just the fact that he had the
11 discovery, that's what you're introducing this for?

12 MS. OLLILA: Yes.

13 THE COURT: Okay. Does that clear up any potential
14 issue?

15 MR. SHEKETOFF: Yes, your Honor, because I was
16 concerned about whether we were getting 1500 pages of
17 discovery.

18 MS. OLLILA: No.

19 MR. SHEKETOFF: So I don't know what else they
20 intend to put in from this search.

21 THE COURT: Why don't you make that clear so we can
22 clear this up.

23 MS. OLLILA: Sure. I have already done that, but
24 I'll do it again on the record.

25 The exhibits that are marked for entry are the

1 documents that are discovery, 51j, which is Google searches
2 conducted by the defendant in which he engages in a search of
3 getting text messages off of iPhone, and he also engages in
4 the search of Special Agent Mark Alford, who is the FBI agent
5 search.

6 THE COURT: And do you have any objection to --

7 MR. SHEKETOFF: To that one I do, and perhaps your
8 Honor would be willing to look at that one and decide whether
9 it comes in or not. I have a 403 objection to it.

10 THE COURT: Can I see it?

11 MS. OLLILA: Of course.

12 THE COURT: We'll just make sure we cover these
13 before the jury comes back in, and I appreciate you bringing
14 it to my attention.

15 MS. OLLILA: Oh, sure.

16 THE COURT: Tell me what I'm looking at. Google
17 searches?

18 MS. OLLILA: That's a printout of the forensics
19 report of the Google searches conducted by the computer
20 located at the defendant's residence.

21 THE COURT: How was this generated?

22 MS. OLLILA: It was generated by a forensics
23 report, and counsel has stipulated that the United States is
24 not required to bring the forensics examiner. But this is a
25 document that the forensics examiner produced, and it was

1 based upon what the forensics examiner took off of Mr. Nakos'
2 computer. And if you look at the first entry at the top of
3 the page, it will say how to get messages off of iPhone --
4 text messages off of an iPhone.

5 THE COURT: Okay. And this is the forensics
6 interpretation of --

7 MS. OLLILA: No, it's not the forensics
8 interpretation. It's literally --

9 THE COURT: The Google search.

10 MS. OLLILA: -- the Google search. And if you look
11 at the column to the right, you will see when it was
12 searched, the date it was searched.

13 THE COURT: This date here?

14 MS. OLLILA: Exactly, Judge.

15 THE COURT: Okay. All right.

16 MS. OLLILA: And the same applies -- counsel
17 brought this up with respect to Mark Alford when counsel
18 questioned one of the witnesses, and the question was: Did
19 you seize Mark Alford an FBI agent's business card at the
20 time of the search of the residence?

21 When David Givens, the contractor testified, he
22 testified that an FBI agent came to see him and talked to him
23 about Alkis Nakos, and he also testified that he had engaged
24 in work at Mr. Alkis Nakos' residence. The Google search is
25 Mark Alford, FBI, and you'll see when the search occurred on

1 that document.

2 It's relevant because why Mr. Nakos would want to
3 be engaging in a Google search of the FBI is directly
4 implicated to the fact that he would want to know if law
5 enforcement were watching him because he's engaged in the
6 distribution of controlled substances.

7 THE COURT: Well, how is doing a search of Mark
8 Alford going to tell him that? How would doing a search of
9 him tell him whether that guy is surveilling him?

10 MS. OLLILA: He wants to find out who Mark Alford
11 is, which is why he types in, Judge, FBI.

12 THE COURT: Okay. What's your objection?

13 MR. SHEKETOFF: Well, this may be a fine
14 distinction, your Honor, but I didn't stipulate. What I said
15 was that I'm not going to object to not having a keeper of
16 the records. She doesn't have to bring this person in. I'm
17 not contesting that he got this off a computer. It's a
18 little different to say that I stipulate. She can introduce
19 it through whatever witness she wants.

20 THE COURT: Okay.

21 MR. SHEKETOFF: So are these all the Google
22 searches on the computer or just ones that this person
23 selected out as relevant? To suggest that these are the only
24 Google searches on the computer I think is misleading. And
25 plus, I don't know what the relevance of someone doing a

1 Google search is period.

2 THE COURT: Well, all of that would go really to
3 the weight of this. If she can establish that it increases
4 the probability of -- and it passes the relevance test. So
5 your argument was prejudice. How is prejudice implicated,
6 and just how does it substantially outweigh the probative
7 value?

8 MR. SHEKETOFF: What is the relevance that he did a
9 Google search on how to get text messages off your iPhone?
10 When was that search? I don't have it in front of me right
11 now.

12 THE COURT: The date and time is November 2013 in
13 the evening.

14 MS. OLLILA: Which is particularly relevant, Judge,
15 because it shows that he continued to engage in the
16 distribution of narcotics and would have reason to try to
17 ensure that text messages were not on his telephone.

18 THE COURT: And Special Agent Mark Alford, that has
19 come up, I can see that name being somehow relevant to the
20 government's case, but I'm not seeing the prejudice enough to
21 exclude it. So I hear your argument. It's overruled. I'll
22 allow Exhibit 51 -- it looks like j or i -- 51 for ID. I am
23 not going to exclude it under 403. I've done the balancing
24 test, and I find that the prejudice is really minimal and the
25 probative value is enough to get past that balancing test.

1 So that comes in. You're not fighting about authentication
2 or foundation?

3 MR. SHEKETOFF: No, I'm not, your Honor.

4 MS. OLLILA: Judge, I'll also show you 51i, and
5 this is another report, and it's the cookies carved. And if
6 I knew what cookies carved was, I would let you know.

7 THE COURT: Do you object to this one?

8 MS. OLLILA: These are all the searches the
9 defendant has done with respect to places to go in Canada,
10 and that's relevant because the United States' argument is
11 that he was traveling to Canada often in order to meet with
12 Mihail Leventis.

13 THE COURT: Okay. I don't believe that's in
14 dispute.

15 MR. SHEKETOFF: Right.

16 THE COURT: What's the prejudice? Anything? Okay.
17 All right. So there's no real argument with respect to 51i.

18 MS. OLLILA: And Judge --

19 THE COURT: Did you say 51j or -- it's hard to tell
20 the difference.

21 MS. OLLILA: I know.

22 THE COURT: But I think the first was 51j and this
23 is 51i, the second one. All right. So both are okay.

24 MS. OLLILA: And this is 51k.

25 THE COURT: Can you just show it to Attorney

1 Sheketoff first and let him refresh his recollection as to
2 that exhibit?

3 MS. OLLILA: Oh, sure.

4 THE COURT: Is that okay, or do you object to that?

5 MR. SHEKETOFF: No, it's just another -- it's like
6 a Google search, a Safari search.

7 MS. OLLILA: It's a Safari history search, Judge,
8 not Google. And it's relevant because it happened on
9 December 30, 2013, and it shows that the defendant is still
10 maintaining a watch as to DEA press releases that were sent
11 out, and he goes on the www.justice.gov file -- website,
12 excuse me, and there are also indications that he did a
13 Safari search of police seize drugs, 400,000 cash, in
14 Danville on December 23, 2011.

15 THE COURT: Okay. Any objection to this one --

16 MR. SHEKETOFF: Yes, your Honor, because --

17 THE COURT: -- 51k for ID?

18 MR. SHEKETOFF: -- I don't think what you're
19 reading is of any relevance. That you go on a government
20 website and read what's on the government website, that makes
21 you more or less likely to be a criminal? I just don't get
22 that.

23 THE COURT: Well, I can tell you it's very hard to
24 see, it's so small, but maybe some jurors can see this. It
25 looks like there are sites in the Safari history. It looks

1 like we've got record numbers, we have a URL, a title, and a
2 last visited date and time, and it looks like there are
3 searches at the justice.gov site and also the FBI.

4 MS. OLLILA: Correct.

5 THE COURT: Several searches. I'm not seeing
6 anything particularly prejudicial, but I can see minimal
7 relevance with respect to this in terms of, you know, looking
8 at FBI sites, the government site. I think it's -- give
9 me -- what's the prejudice from this?

10 MR. SHEKETOFF: I just don't see any relevance.
11 She's going to use it against him in closing argument. I
12 think you have to make a lot of leaps to use it against him
13 in closing argument. That he visits some FBI site or some
14 Justice Department site suggests that he's more likely to
15 have committed a crime, I just don't see that link.

16 THE COURT: All right. I think it meets the
17 minimal relevance, but I'm really not seeing any prejudice to
18 51k so I'm going to allow it. But obviously, you know,
19 arguments have to be limited to evidence and --

20 MS. OLLILA: Of course.

21 THE COURT: Of course. And so to the extent there
22 are searches involving the FBI and the Department of Justice,
23 that's what they are. To make them out into anything more
24 would be mischaracterizing these exhibits. So I think
25 they're of minimal relevance. There's no real prejudice. So

1 I think these come in. Are there any others?

2 MS. OLLILA: Yes, Judge. There's one more, and
3 this is an iOS notes backup, and these are text messages that
4 had been stored on Mr. Nakos' computer. When I say text
5 messages, I mean SMS and MMS messages, and these are relevant
6 because he's talking about going to Montreal. He's talking
7 about when he's heading to Montreal.

8 There's one that's contained on page 7 that says --
9 he's responding to a request from a friend. He says to his
10 friend, "Plus the cops took 15,000 from me while I was up in
11 Montreal. It was a mess." That's highly relevant because it
12 goes to cross-corroborate that the defendant was in Montreal
13 and had an amount of money seized from him.

14 Also on page 6 of this exhibit, which is 511,
15 there's a reference that the defendant has frequently gone up
16 to Montreal and he talks about crazy moments he's had
17 traveling in different places, strip clubs, Montreal, Boston,
18 Foxwoods, too many fun times. It just goes to
19 cross-corroborate the fact that he goes to Montreal often.

20 There is another message on page 10 where the
21 defendant says, "Well, I need to have fun after working all
22 the time. Thinking of heading to Montreal next month."

23 Those are highly relevant because it's the United
24 States' argument that this defendant travels to Montreal
25 frequently because he is the organizer of a drug conspiracy

1 and needs to do so.

2 THE COURT: All right. So explain the basis to
3 keep this out. It seems to support your argument also that
4 he goes to Canada a fair amount. What's the prejudice?

5 MR. SHEKETOFF: Well, I'm hard pressed, your Honor.

6 THE COURT: I appreciate the honesty. And is there
7 anything in here that you're going to take particular issue
8 with that was just described?

9 MR. SHEKETOFF: Not at all.

10 THE COURT: All right. Okay. So these exhibits --
11 and let me just for the record -- this one, there's no issue
12 with this?

13 MS. OLLILA: That is the discovery one, Judge.

14 THE COURT: 51b, that was the first one?

15 MS. OLLILA: Correct.

16 THE COURT: And that just indicates that there was
17 a date of delivery of the discovery to Mr. Nakos.

18 MS. OLLILA: And that he had the discovery on his
19 computer, Judge.

20 THE COURT: Okay. All right. So we've got 51h.
21 We have 51k. We have 51j and 51i. We have 51l. All of
22 which come in under 401, 402, and are not excluded under 403
23 after doing the balancing test with respect to probative
24 value needs to be substantially outweighed by the prejudice.
25 And there's probative value in each one, some minimal, but

1 there's certainly not substantial prejudice such that it
2 would outweigh the probative value. Anything further?

3 MS. OLLILA: Judge, I just double checked the
4 exhibits.

5 THE COURT: These are coming in.

6 (Government Exhibit Nos. 51h, 51i, 51j, 51k
7 and 51l Admitted)

8 MS. OLLILA: This is 51g. It's a letter from the
9 Montreal police referencing the seizure of approximately
10 \$10,000 in Canadian currency from the defendant and a
11 BlackBerry telephone on November 30, 2011. It confirms that
12 the defendant did have currency seized from him in Montreal.
13 That was printed from his computer, Judge.

14 THE COURT: Do you have any objection to that, 51g?

15 MR. SHEKETOFF: Well, I think that that was sent to
16 him by his lawyer, so I'm not --

17 THE COURT: Okay.

18 MR. SHEKETOFF: So I think it's an attorney-client
19 privileged communication.

20 THE COURT: Do you have anything that would tell me
21 otherwise?

22 MS. OLLILA: Yes. I'm not sure where Attorney
23 Sheketoff is coming up with that. That was printed right off
24 of his computer.

25 MR. SHEKETOFF: I know, but wasn't there a cover

1 letter? Wasn't there correspondence back and forth between
2 his Canadian lawyer and him about fighting this?

3 THE COURT: This one you're making a stronger
4 argument.

5 MR. SHEKETOFF: Well, I just remember this
6 correspondence, your Honor. I can't honestly say that I
7 recall that this is attached to that.

8 THE COURT: All right. I think you've gotten in
9 other evidence of this, including text messages from Mr.
10 Nakos.

11 MS. OLLILA: Judge, this is not a letter from his
12 attorney.

13 THE COURT: It could have been attached to a letter
14 from counsel, and Attorney Sheketoff seems to think he's seen
15 such a thing. That to me is a fairly compelling argument
16 that that exhibit, 51g, is out. And frankly, you've gotten
17 that testimony in through Agent Poirier. You're getting it
18 in through his own text messages.

19 MS. OLLILA: Good point, Judge. Good point, Judge.

20 THE COURT: This is attorney-client privilege.
21 It's out.

22 THE CLERK: Your Honor, could I clarify one thing?

23 THE COURT: You've got some issues with exhibits?

24 THE CLERK: Well, you had mentioned 51b, then 51h.

25 MS. OLLILA: 51g.

1 THE CLERK: No, the one prior to that.

2 MS. OLLILA: It's 51h, 51l, 51k, 51j, 51i.

3 THE CLERK: All right. Thank you.

4 THE COURT: Thank you. Okay. Is there anything
5 else before I run up to chambers and come running back down?
6 And I'll let you run as well.

7 MR. SHEKETOFF: Thank you, your Honor. Just one
8 thing, which is can I state my rights based on our discussion
9 or do I have to stand up and object to each one of these
10 again?

11 THE COURT: Oh, your 401, your relevance arguments,
12 they are preserved.

13 MR. SHEKETOFF: Thank you, your Honor.

14 THE COURT: Let's call them preserved.

15 MR. SHEKETOFF: Thank you, your Honor.

16 THE COURT: Is there anything else? We've got one
17 witness?

18 MS. OLLILA: That's it, Judge.

19 THE COURT: And then you'll make a motion.

20 MR. SHEKETOFF: Yes, your Honor.

21 THE COURT: And then we'll have time for witnesses
22 as well. So you can let me know what you're going to do. I
23 think what I would do is take your motion under advisement
24 depending upon what happens and give you a ruling after we
25 get the jury out.

1 So we'll just take a brief recess and I'll just
2 come back in.

3 (RECESS)

4 THE COURT: You may call your next and last
5 witness.

6 MS. OLLILA: Thank you very much, your Honor. The
7 United States calls Eric Piche.

8 ERIC PICHE

9 having been duly sworn, testified as follows:

10 THE CLERK: For the record, please state your name
11 and spell your last name.

12 THE WITNESS: My name is Eric Piche. Last name is
13 spelled P-I-C-H-E.

14 DIRECT EXAMINATION

15 BY MS. OLLILA:

16 Q. Good afternoon, sir.

17 A. Good afternoon.

18 Q. How are you employed?

19 A. I'm employed by the New Hampshire Department of
20 Safety, Division of State Police, as a state trooper.

21 Q. Where are you currently assigned?

22 A. I am currently assigned as a detective and
23 technical investigator with the Narcotics Investigations Unit
24 within the State Police.

25 Q. Are you someone known as the administrator of the

1 wire room?

2 A. I am.

3 Q. What is an administrator of the wire room?

4 A. Essentially the administrator for the wire room
5 would be the person that's responsible for the general
6 maintenance of the system, the provisioning of any court
7 ordered pen register trap and traces or Title 3 wiretap
8 intercepts.

9 Q. Are you the technical guru for the state police
10 NIU?

11 A. I am.

12 Q. Is that the only function you serve in the NIU?

13 A. I generally assist case agents with general
14 assistance on cases such as surveillance and stuff like that.

15 Q. Have you ever served as the evidence technician
16 with the recovery of evidence that has been seized in
17 connection with search warrants?

18 A. I have.

19 Q. Were you the evidence technician for the search of
20 366 Arah Street in Manchester, New Hampshire?

21 A. I was.

22 Q. And who was living at that residence?

23 A. The defendant, Alkis Nakos, was.

24 Q. What is an evidence technician?

25 A. Essentially the evidence -- people get different

1 assignments when you go to execute a search warrant. Someone
2 may be responsible for taking photographs. Someone may be
3 the evidence technician. Essentially the evidence technician
4 is the person that will set up and collect and document where
5 evidence was found within a location, who it was found by,
6 such things as that, and what was done with it after it was
7 found, like was it sent to the state police lab, was it sent
8 to the narcotics unit storage facility.

9 Q. Is the evidence technician used for record keeping
10 with respect to writing the number of every exhibit and
11 indicating in a report where it was seized?

12 A. Yes. That's correct.

13 Q. And have you done that in this case?

14 A. Yes, I have.

15 Q. Was there a lot of documentation seized from
16 defendant Nakos' residence?

17 A. Yes, there was.

18 Q. I'm not going to introduce a lot, but I want to
19 show you what has been marked for identification as
20 Government's Exhibit 60b. I would ask, Trooper Piche, if you
21 would take a look at 60b. Do you recognize what that is?

22 A. Yes, I do. It was bank records that were found.

23 Q. And were they seized from the defendant, Alkis
24 Nakos' residence?

25 A. They were.

1 MS. OLLILA: Your Honor, I would ask that the ID be
2 stricken on 60b and it be entered into full evidence.

3 MR. SHEKETOFF: No objection.

4 THE COURT: 60b is a full exhibit.

5 (Government's Exhibit No. 60b Admitted)

6 MS. OLLILA: Dena, will you please pull up 60b.

7 Q. Now, Trooper Piche, I'm going to hand you the
8 original.

9 A. Okay.

10 Q. And I want you to indicate what that document is.

11 A. It is a TD Bank Elite Savings statement addressed
12 to Alkis Nakos, and it appears to be for the time period of
13 December 16, 2009, to January 4, 2010.

14 Q. December 16, 2009, through January what 2010?

15 A. January 4, 2010.

16 Q. And if you can see on 60b, was there a deposit made
17 into that Elite Savings account on December 16, 2009?

18 A. Yes, there was.

19 Q. And what was that deposit amount?

20 A. The deposit was made for \$130,000.

21 Q. And what was the balance in the account at the end?

22 A. The balance at the end was \$133,822.15.

23 Q. Were there also receipts recovered during the
24 search at Alkis Nakos' residence?

25 A. Yes, there were.

1 Q. Let me show you what is marked as 60j, but I want
2 to confer -- is that a J? 60j. Do you recognize what 60j
3 is?

4 A. Yes. Those are Gucci receipts that were found at
5 the residence.

6 Q. Do you know what Gucci is?

7 A. It's a high-end clothing store, I guess.

8 Q. Do you own anything from Gucci?

9 A. No, I do not.

10 Q. What are the dates on those receipts?

11 A. The first one is dated it looks like July 13, 2010.
12 They're both dated July 13, 2010.

13 Q. And I want you to look at the time between the two
14 purchases. Were there two purchases at Gucci on that date?

15 A. There were.

16 Q. And what was the time between each purchase?

17 A. The first purchase was made at 7:08 p.m. and the
18 second purchase was made at 7:14 p.m.

19 Q. And how much was the first purchase for?

20 A. The first purchase was for \$462.72.

21 Q. And what about the second purchase?

22 A. \$185.09.

23 MS. OLLILA: Your Honor, I would ask that the ID be
24 stricken on 60j and it be entered into full evidence.

25 MR. SHEKETOFF: I have no objection.

1 THE COURT: 60j is a full exhibit.

2 (Government's Exhibit No. 60j Admitted)

3 MS. OLLILA: Please pull up 60j, Dena.

4 I'm going to withdraw having her pull it up, Judge.

5 Q. Trooper Piche, was there a computer seized at the
6 residence?

7 A. Yes, there was.

8 Q. And was the computer sent to the New Hampshire
9 State Police Forensic Laboratory for an examination to be
10 conducted?

11 A. Yes, it was.

12 Q. And was that examination conducted?

13 A. Yes, it was.

14 Q. And was a copy made of the hard drive of that
15 computer?

16 A. Yes. The analysis was placed onto two disks.

17 Q. Okay. And did you receive those two disks?

18 A. I did.

19 Q. Now I'm going to show you some exhibits that were
20 taken off of those two disks, which consisted of the hard
21 drive of the computer, and these exhibits have been entered
22 into full evidence, 51h, 51i, 51j, 51k, 51l. Why don't you
23 review those documents.

24 A. Yes. These are all -- were taken from the lab
25 analysis off of the computer that was located at Mr. Nakos'

1 residence.

2 MS. OLLILA: Dena, please pull up 51h.

3 Q. Now, Trooper Piche, I just had Dena put in yellow
4 highlights a document that was taken off of Alkis Nakos'
5 computer which is named discovery page 1 through 597. Do you
6 see that?

7 A. Yes, I do see that.

8 Q. Now, below that listing is a created date. What
9 was the created date?

10 A. It looks like the created date was July 9, 2009.

11 Q. And if you go two lines below that, it says access
12 date, and I'm assuming that is the last time that file was
13 accessed. What is that date?

14 A. That date is November 3, 2011.

15 Q. And the discovery pages 1 through 597, do you know
16 what that discovery is?

17 A. Yes. I reviewed those files from the forensic
18 analysis and they appear to be the Brownshirt discovery
19 package, or Operation Brownshirt.

20 Q. On that same document, what Dena has just
21 highlighted appears to be at the bottom of the page. And if
22 I'm correct, does it say discovery page 1,347 through 1,524?

23 A. Yes, it does say that.

24 Q. And what is the created date of that file?

25 A. That was created on December 1st, 2009.

1 Q. And what was the last access date?

2 A. It looks like November 3, 2011.

3 Q. And how many pages of discovery are contained
4 there?

5 A. In that particular section?

6 Q. Yeah, page what through what?

7 A. Page 1,347 to page 1,524.

8 MS. OLLILA: So Dena, now go to page 2.

9 Q. Trooper Piche, you are now looking at page 2 of
10 51h, and Dena has highlighted in the middle of the page, and
11 she's highlighted discovery page 657 through 911; is that
12 fair?

13 A. Yes, that is.

14 Q. And what was the created date on that file?

15 A. The created date was September 9, 2009.

16 Q. And what was the last accessed date?

17 A. Again, November 3, 2011.

18 Q. And is that also Operation Brownshirt discovery?

19 A. Yes.

20 Q. I don't know whether I asked you this, but the
21 pages 1347 through 1524, did that also consist of Operation
22 Brownshirt discovery?

23 A. Yes, it did.

24 Q. Trooper Piche, I'm showing you what is marked as
25 51j and entered into full evidence. Do you recognize what

1 that document is?

2 A. Yes. This is part of the forensic analysis done by
3 the forensic lab on the computer that was located in Mr.
4 Nakos' residence.

5 Q. Thank you, Trooper Piche.

6 MS. OLLILA: Dena, please bring up 51j.

7 Q. Dena has pulled up page 1 on 51j.

8 MS. OLLILA: And can you enlarge that, too, Dena?

9 Q. And I want to ask you -- there's a reference to
10 record No. 45. Do you see that reference?

11 A. Yes, I do.

12 Q. And was this a Google search?

13 A. Yes. It appears to be.

14 Q. Was it a Google search conducted on the computer
15 seized from Alkis Nakos' residence?

16 A. Yes.

17 Q. And what was the Google search?

18 A. Getting text messages off of iPhones.

19 Q. And when was that Google search conducted?

20 A. The forensic report is showing November 5, 2013.

21 MS. OLLILA: Now, Dena, back out of that. I want
22 you to highlight here and here and enlarge that.

23 Q. The reference below that Dena has just pulled up is
24 another record, record 207. Do you see that record?

25 A. I do see it.

1 Q. What is the Google search conducted?

2 A. It appears that the search was for Special Agent
3 Mark Alford, New Hampshire.

4 Q. And what date was the Google search conducted?

5 A. The forensic analysis is showing March 21, 2011.

6 Q. Do you know who Special Agent Mark Alford is?

7 A. Yes, I do. He's a special agent with the FBI.

8 Q. Let me show you what has been marked 51k and
9 entered into full evidence, and this is a Safari history. Do
10 you recognize this Safari history?

11 A. Yes, I do. This is part of the forensic report
12 from the lab on Mr. Nakos' computer.

13 MS. OLLILA: Please put up 51k, Dena. Now, can you
14 enlarge that whole area?

15 Q. This is incredibly difficult to see, Trooper Piche,
16 so I'm going to try to have you read it. How is your
17 eyesight by the way?

18 A. It's fair.

19 Q. I want you to advise the jury what this page
20 consists of.

21 A. It consists of a bunch of web pages that were
22 visited on Safari.

23 Q. Now, the very first entry, what is the web page
24 that was visited on that date?

25 A. The actual URL is

1 http://www.justice.gov/dea/division/Bos/Boston_2013.

2 Q. And was there an indication as to what was searched
3 on that site?

4 A. Yes. There is a title in the report and the title
5 would be dea.gov/news from DEA, domestic field division, New
6 England news releases 2012.

7 Q. And what was the date that DEA press releases were
8 searched?

9 A. December 30, 2013.

10 Q. And I want to draw your attention to the third
11 entry from the bottom. The third entry from the bottom, what
12 is the -- what was the search conducted on the third entry
13 from the bottom?

14 A. Under the title field it states: Police seize
15 drugs, 400K cash in Danville.

16 Q. Do you know where Danville is?

17 A. Yes, I do.

18 Q. In what state is Danville located?

19 A. New Hampshire.

20 Q. And what is the date that that search was conducted
21 on?

22 A. That search was conducted on December 23, 2011.

23 Q. Thank you. Let me show you what is 511 and has
24 come into full evidence. Do you recognize what this is?

25 A. Yes. This is more of the forensic report that was

1 issued from the forensic analysis of Mr. Nakos' computer
2 found at his residence.

3 MS. OLLILA: Dena, please turn to page 4, and I
4 want you to --

5 Q. Can you see the area that was just highlighted?

6 A. Yes, I can.

7 Q. And what is the date that that message was sent or
8 received?

9 A. November 21, 2011.

10 Q. And was it sent or received?

11 A. It's showing -- the report here is showing sent.

12 Q. And what is said? What is the sent message?

13 A. The sent message is: At center ice almost opposite
14 the benches and in Montreal. Jewelry is way too expensive
15 right now so doesn't matter who. I know, but I do have a guy
16 if you need.

17 MS. OLLILA: Now, Dena, please turn to page 7 of
18 the same exhibit.

19 Q. Trooper Piche, can you see what this SMS message
20 was? Was it sent or received?

21 A. It's showing sent.

22 Q. And what date was it sent?

23 A. October 10, 2011.

24 Q. Could you please read it?

25 A. I'm assuming you want the very top where it says

1 Montreal.

2 Q. The top where it says crazy.

3 A. "Crazy moments we had lots. Saint Thomas, Super
4 Bowl, Vegas, Cali, Greece, Rome, Pats, games, Celtics, strip
5 clubs, Montreal, Boston, Foxwoods, which was the first time I
6 went and was with you."

7 And then it looks like there's a type of smiley
8 face, "Newport, and the list goes on. Too many fun times cuz
9 we both fun people."

10 MS. OLLILA: Now, turn to the next page, Dena,
11 please, page 8.

12 Q. You are now looking at page 8 of 511, Trooper
13 Piche?

14 A. Yes.

15 Q. And can you please read that SMS text -- is that an
16 SMS message by the way? Is it a text message?

17 A. The report is showing it as an SMS.

18 Q. Okay. Was that sent or received?

19 A. The report is showing it's sent.

20 Q. And what date was it sent?

21 A. December 21, 2011.

22 Q. And what is the message?

23 A. "Plus the cops took 15k from me while I was up in
24 Montreal. It was a mess."

25 MS. OLLILA: Dena, please go to page 9.

1 Q. You're now on page 9. Do you see that there's an
2 SMS message that has been highlighted?

3 A. Yes, I do.

4 Q. Was it sent or received?

5 A. The report is showing sent.

6 Q. And what date was it sent?

7 A. November 18, 2011.

8 Q. And what is the message?

9 A. "I'm just packing up my things right now. Gonna go
10 to Montreal tomorrow."

11 MS. OLLILA: Finally, Dena, on page 11.

12 Q. Trooper Piche, you are now looking at page 11 of
13 the same Government's Exhibit 511. This SMS message, when
14 was it sent or received?

15 A. It's showing September 20, 2011.

16 Q. And was it sent or received?

17 A. It's showing sent.

18 Q. And what was the message?

19 A. "Well, I have to be. Need to have fun after
20 working all the time. Thinking Montreal next month."

21 Q. 51i, which is a Google analytics referral cookie
22 carve. Do you recognize what that is?

23 A. Yes, I do. This is, again, part of the forensic
24 analysis that was done of the computer located at Alkis
25 Nakos' residence.

1 MS. OLLILA: Please pull that up, Dena, 51i.

2 Q. Trooper Piche, we won't go through all of these,
3 but what is contained within this exhibit? Let me give you
4 the original. I'm sorry. Sorry about that.

5 A. It appears to be key words that were searched at
6 some point on that computer.

7 Q. And what were the key words that were searched?

8 A. Going from the top to bottom the key words are
9 Place d'Armes Montreal, Off the Hook Montreal, Hotel Le
10 Germain Montreal, another Montreal.

11 Q. Are the vast majority of references to places
12 searched in the area of Montreal, Canada?

13 A. Yes. They appear to be.

14 Q. Now, one last thing that I want you to do, Trooper
15 Piche. Did you -- when you were the evidence technician at
16 366 Arah Street, did you end up seizing a glass container
17 that contained a lot of money bands?

18 A. Yes, we did.

19 Q. And it is marked as 60p for identification. Do you
20 recognize what that is?

21 A. Yes, I do recognize it.

22 Q. And I'm holding in my hand some of those money
23 bands that had been taken out. Do you recognize that?

24 A. I do recognize those.

25 Q. Were these taken out of 60p?

1 A. Yes, they were.

2 MS. OLLILA: Your Honor, I would ask that 60p the
3 ID be stricken and it be entered into full evidence.

4 THE COURT: Any objection?

5 MR. SHEKETOFF: No objection.

6 THE COURT: All right. It's a full exhibit.

7 (Government's Exhibit No. 60p Admitted)

8 Q. Trooper Piche, in 60p, there are a lot of money
9 bands in there, correct?

10 A. That's correct.

11 Q. And I don't want you to take those out, but what I
12 want you to do is I want you to add up, if you can, the years
13 and the money taken out. And I'm first going to hand you
14 money bands that are dated in 2010, and I just want you to
15 tell the jury how much that represents in cash taken out by
16 Alkis Nakos.

17 A. There's two \$5,000 money bands here, so that would
18 be a total of 10,000.

19 Q. And is that 2010?

20 A. Yes, that's correct. There's an indication of 2010
21 on here.

22 Q. Is there handwriting on both of those money bands?

23 A. There is.

24 Q. And with respect to the handwriting, is the
25 handwriting dated a certain year?

1 A. Yes, it is.

2 Q. Okay. So are those both dated in 2010?

3 A. Yes, they are.

4 Q. Why don't you put those aside, and I'm going to
5 give you 2011, and I want you to advise the jury how many
6 money bands represented cash being taken out in 2011.

7 A. They're dated 2011 and it's -- 1,000 plus 5,000 is
8 6,000, and another 5,000 is 11,000, 16,000, 17,000, 18,000.

9 Q. If you could set those aside. And that was 2011,
10 correct?

11 A. That's correct.

12 Q. Now I want you to go to 2012 and add them up if you
13 can.

14 A. 5,000, 10,000, 15,000, 20,000, 25,000, 30,000,
15 35,000, 40,000, 45,000, 50,000, 55,000, 60,000, 61, 62, 63,
16 64, 65,000.

17 Q. And what year was that?

18 A. 2012.

19 Q. That's cash taken out of a bank?

20 A. Yes.

21 Q. I want you to go to 2013 and add those up for the
22 jury.

23 A. There's a couple of \$10,000 ones in here so 10,000,
24 20,000, 25,000, 30,000, 35,000, 40,000, 45,000, 50,000,
25 51,000.

1 Q. Okay. 2012 -- excuse me. 2013.

2 A. We just did '13, right?

3 Q. Oh, I'm sorry. I actually gave you the wrong one.
4 Let me give you --

5 A. That's '12. Did we do that? Yeah, we did that
6 one. It was 65, right?

7 Q. Let me give you '14. I'm sorry about that. 2014.
8 Sorry. That was my mistake.

9 A. 5,000, 10,000, 15,000, 20,000, 21,000, 22,000,
10 23,000, 24,000, 25,000, 26,000, 27,000, 28,000, 29,000,
11 30,000, 31,000, 32,000, 33,000 in 2014.

12 Q. In 2014 you said how much, 32,000?

13 A. 33,000.

14 Q. 33. Can you add all those funds up between 2010
15 and 2014? I'm going to see how good you are at math.

16 A. 177,000. Does that sound right?

17 Q. That's just cash taken out of a bank. Does that
18 include the rest of the money bands that are contained in
19 60p?

20 A. No, it does not.

21 MS. OLLILA: I have nothing further, Judge.

22 THE COURT: All right. It's 4:00. Attorney
23 Sheketoff, this would normal ly be the time we would end our
24 day.

25 MR. SHEKETOFF: It's up to you, your Honor.

1 THE COURT: Well, ultimately I think it's up to the
2 jury. Your cross, half hour, hour?

3 MR. SHEKETOFF: No. Much less than that. Much
4 less.

5 THE COURT: 15 minutes maybe?

6 MR. SHEKETOFF: Yes.

7 THE COURT: I'll let the jury assess that. Keep
8 going? I'm getting unanimity. Is that right? Is there
9 anybody who's going to run into a problem with that? Okay.
10 Go ahead.

11 MR. SHEKETOFF: If anybody runs into a problem,
12 please raise their hand.

13 CROSS-EXAMINATION

14 BY MR. SHEKETOFF:

15 Q. Those money bands, they're all from the banks
16 except for the ones that are from casinos? I mean, can you
17 tell the difference between a casino one that's signed by the
18 pit boss and a bank one?

19 A. I believe most of them appear to be -- I think
20 there may have been some of those bands in there that may
21 have said Foxwoods. I would have to look at them again.

22 Q. All right. Do others say St. Mary's or different
23 banks on them?

24 A. I would have to look at them again.

25 Q. Well, you refer to them as cash from banks,

1 correct?

2 A. Yes. They did appear -- I believe that some of it
3 was marked St. Mary's or something.

4 Q. All right. Those are bands that you would get if
5 you went to a bank and they gave you cash, correct?

6 A. Yes. I would assume so.

7 Q. And the banks keep records, correct?

8 A. Yes, they do.

9 Q. So if I withdrew 20,000 or 50,000 or 60, you could
10 look at my records and see exactly when I did it, correct?

11 A. Yes.

12 Q. You could even see the deposits that were put in
13 there, correct?

14 A. That's correct.

15 Q. So, for instance, the 12/16 deposit, that was the
16 very first thing you were asked about for \$130,000, you could
17 actually go to the bank and see that there was a withdrawal
18 from St. Mary's Bank of 129,000, and 130,000 was put into the
19 second bank on December 16th. All the same day. You could
20 see that if you wanted to, correct, from the records?

21 A. Yes. I assume bank records would show that, yeah.

22 Q. And they even keep records of the checks that you
23 deposited, correct?

24 A. Yes.

25 Q. And do you know from your role as the evidence

1 administrator from this search and the wire room whether or
2 not this investigation included getting copies of the St.
3 Mary's Bank records and every other bank record for my
4 client's accounts? Do you know if it did or not?

5 A. I'm not sure if every single account was
6 subpoenaed. I wouldn't know that. I'm a support role. That
7 would be a case investigator type function.

8 Q. And if I'm trying to keep my cash secret, do I put
9 it in the bank and then take it out of the bank in chunks of
10 money over \$10,000? Is that the way to be secretive?

11 A. Probably not.

12 Q. Well, okay. Now, Operation Brownshirt is the
13 investigation of Mr. Champagne and others, correct?

14 A. Yes. That's correct.

15 Q. And all this computer stuff that you found -- not
16 you personally but was reported to you, was on the
17 computer -- was what we call Bates stamped, correct?

18 A. Yes. That's correct.

19 Q. And Bates stamped is something that the U.S.
20 Government does when it hands over discovery, correct?

21 A. Yes. That's correct.

22 Q. All right. So isn't it fair to say it's obvious to
23 you that that was discovery Bates stamped by the government
24 handed over to somebody that ended up on his computer?

25 A. Yes. That's correct.

1 Q. You don't know whether Mr. Champagne's lawyer gave
2 him that Bates stamped discovery or not?

3 A. I have no idea where that discovery -- how he came
4 into possession of it.

5 Q. And the dates on that, the date of July 9th for the
6 first portion of that discovery created on July 9th or
7 something like that, is that the day the U.S. Attorney's
8 Office created it? Is that the day it went on this computer
9 for the first time? Do you have any way of knowing that?

10 A. I'm not familiar with actually running that
11 particular analytical software so I couldn't say for certain.
12 It could be one -- I would say it would be one or the other.

13 Q. Okay. And Mark Alford, the FBI agent -- during the
14 course of the search of my client's house did you find a
15 business card from Mark Alford saying that he was with the
16 FBI and on the back of that card the name of his partner?

17 A. I don't recall to be honest with you, but it is
18 possible. There was so much that was seized. I couldn't
19 remember every single piece of paper without looking through
20 it.

21 Q. Okay. So this search was conducted in June of
22 2014?

23 A. That's correct.

24 Q. Kosmas Koustas had been chased by the New Hampshire
25 State Police a couple of months earlier and arrested for the

1 violations having to do with that chase. Do you know that?

2 A. That sounds familiar, yes.

3 Q. All right. That was in the newspaper and stuff, or
4 at least his friends knew about the fact that he had been
5 chased?

6 A. I would assume so. I believe it was in the
7 newspaper.

8 Q. Okay. And now a couple of months later you're
9 conducting a search of my client's house, correct?

10 A. That's correct.

11 Q. And who did he live there with?

12 A. I believe he lived there with his girlfriend and
13 son.

14 Q. Right. And there was one computer in the house?

15 A. No. There were several other computers in the
16 house as well.

17 Q. And is it clear to you based on the analytics of
18 this computer that he had this computer for some period of
19 time?

20 A. Yes, it is.

21 Q. Because one of the dates you read to us was 2011.
22 Were there dates even earlier than that?

23 A. I'm trying to think. Yes, there were.

24 Q. So if I had a computer in my house and I didn't
25 want you to know what was on it, would I leave it in my

1 house?

2 A. You may.

3 Q. Right. I could be foolish, not be that smart, and
4 leave it in my house, correct?

5 A. You could, yeah. It's possible.

6 Q. And the money bands, they were in a glass jar in
7 plain view in the house?

8 A. Yes, they were.

9 Q. And how about the guns? Were there any guns?

10 A. I don't believe there were guns seized.

11 Q. How about drugs?

12 A. I don't believe there were drugs seized either.

13 Q. How about scales?

14 A. I would have to review the report to be certain on
15 that.

16 Q. How about records of illegal transactions?

17 A. Again, I would have to review the report, but I
18 don't recall any ledgers.

19 Q. How about the furnishings in the house, luxurious?

20 A. The house appeared to be undergoing some
21 renovations. There was actually some beautiful marble floors
22 in there that were just put in. It looked like the bathroom
23 was all being done in marble.

24 Q. How about the furniture?

25 A. The furniture was nice. The living room set

1 appeared to be nice.

2 Q. Are there pictures of this?

3 A. Yes, there are.

4 Q. How many square feet was the house?

5 A. I'm not sure.

6 Q. Were there many, many other Google searches or have
7 we seen them all?

8 A. The analysis contains a large amount of data, so I
9 would assume that there was more.

10 Q. Okay. So some were selected out to make into an
11 exhibit? In other words, that's not every Google search,
12 every Safari search or --

13 A. Well, there was -- I mean, I'm assuming that this
14 Google analytics report probably searches for some stuff, but
15 there was multiple forensic tools from the forensic report
16 that were run. So you might get some stuff on Google. You
17 might get some different stuff using some other different
18 things, the carve-out of different types of computer
19 software. I mean, there was literally -- some of it had to
20 be put onto a Blu-ray disk, so that just goes to show how
21 much data was on the computer.

22 Q. So there was a ton of stuff on the computer?

23 A. Yes.

24 Q. And we've seen the most interesting stuff here in
25 the courtroom, right?

1 A. I would say that the most interesting, that's
2 probably a matter of opinion but...

3 Q. Right. Okay. Anything that had any computer
4 memory to it whatsoever was taken, correct?

5 A. Yes. I believe that the majority of it was.

6 Q. Anything, whether it was a cell phone, a computer,
7 a laptop, anything?

8 A. Yes.

9 Q. Now, the letter from Montreal -- or the SMS message
10 from Montreal, do you know who that's to? Do you know if
11 that's to his brother?

12 A. I don't know, no.

13 THE COURT: Any further questions, Attorney
14 Sheketoff?

15 MR. SHEKETOFF: No.

16 MS. OLLILA: Your Honor, I need to follow up,
17 because I really neglected to ask an important question.

18 THE COURT: Okay.

19 MS. OLLILA: And I apologize, Trooper Piche, but
20 I'm going to put you on the spot.

21 REDIRECT EXAMINATION

22 BY MS. OLLILA:

23 Q. I didn't ask, was there cash seized at Mr. Nakos'
24 residence?

25 A. Yes, there was.

1 Q. Okay. And where was the cash seized, if you
2 remember?

3 A. I believe it was in various locations. Some of it
4 was tucked into clothing, I believe, like in his master
5 bedroom closet.

6 Q. Was there an amount of money, approximately \$6,300
7 tucked into a shirt of a Timberland -- into the sleeve of a
8 Timberland shirt located in his master bedroom closet?

9 A. Yes, there was.

10 Q. Do you know, was there -- in that currency was
11 there 140 \$20 bills?

12 A. Yes, there was.

13 Q. Was there another amount of currency seized in a
14 separate shirt in the master bedroom closet?

15 A. Yes, I believe there was.

16 Q. Was that approximately \$4,000?

17 A. That sounds about right.

18 Q. Was approximately \$12,000 in U.S. currency seized
19 from Mr. Nakos' residence?

20 A. Yes, there was approximately \$12,000 seized from
21 the residence.

22 MS. OLLILA: Nothing further.

23 RECROSS-EXAMINATION

24 BY MR. SHEKETOFF:

25 Q. Was there a surveillance system there?

1 A. Yes, there was, sir.

2 Q. And did you download that surveillance system?

3 A. Yeah. The surveillance system was sent to the
4 forensic lab and the forensic lab carved all the images and
5 placed them onto a hard drive.

6 Q. And what did the surveillance system depict? I
7 mean, what was shown on the surveillance system?

8 A. There was cameras throughout the house. There was
9 some cameras -- it was a relatively higher end, in my
10 opinion, surveillance system. There were some cameras
11 outside. There were some cameras also inside of the -- that
12 covered the living room and kitchen area in the residence.

13 Q. And can you tell from the data associated with
14 those pictures when the pictures are taken?

15 A. I would have to review the report, but I think -- I
16 can't recall. I would have to review the report to tell
17 exactly when they were taken, but I think it was a little
18 ways back up until the present.

19 Q. Well, was it from the burglary at his home till the
20 present when you went in there?

21 A. That could be fair to say. I'm not a hundred
22 percent sure when the burglary is but...

23 Q. Okay. So there are surveillance cameras on the
24 outside and on the inside of that house that go on literal ly
25 for years, correct?

1 A. Yes, it very well could be. Yes. That's correct.

2 Q. The images are all saved?

3 A. Yes.

4 Q. Could someone look at those images?

5 A. Well, yes, I did review some of them. But
6 unfortunately when the forensic lab -- the way that they had
7 to forensically examine those drives, they weren't able to
8 extract that stuff as video so it was extracted as still
9 photographs, and there were well over two million still
10 photographs. So we scrolled through as best we could, but to
11 try to look at two million photographs, it was difficult.

12 Q. How about for any particular date that you were
13 interested in?

14 A. I can't remember exactly what dates I had looked
15 at. I remember trying to go through it from start to finish.
16 The problem is when you have video like that, like one
17 second -- literally one second of video, depending on the
18 frame rate set on the camera and the recorder, there could be
19 15 photographs that capture one second of video on one
20 camera.

21 Q. So it's a lot of work, but there are dates that you
22 might be interested in, correct? In other words, is there
23 one photograph from that video surveillance that went on
24 inside and outside his house for over a year -- is there one
25 of those photographs that you found of interest, a single

1 one?

2 A. No, there was not.

3 MR. SHEKETOFF: Nothing further.

4 MS. OLLILA: Nothing further, Judge.

5 THE COURT: All right.

6 MS. OLLILA: Nothing further.

7 THE COURT: All right. Trooper Piche, you may step
8 down.

9 MS. OLLILA: The United States rests.

10 THE COURT: All right. Would counsel briefly
11 approach before I dismiss the jury.

12 (SIDEBAR)

13 THE COURT: I'm just inquiring in terms of
14 tomorrow.

15 MR. SHEKETOFF: So I would like to do this out loud
16 in front of my client, but he's told me that he doesn't want
17 to testify.

18 THE COURT: Okay.

19 MR. SHEKETOFF: And I'm going to call no witnesses,
20 except the stipulation, in quotes, the stipulation about the
21 offer to cut his --

22 THE COURT: Deal.

23 MR. SHEKETOFF: Right.

24 THE COURT: And you guys agreed on the language of
25 that?

1 MR. SHEKETOFF: No.

2 MS. OLLILA: No. What we can do, Judge, is I'll
3 take that letter and I'll redact every single thing in it
4 except that -- I think it's a sentence. I would be happy to
5 do that.

6 MR. SHEKETOFF: That would be fine.

7 MS. OLLILA: Sure. And you can introduce it as
8 a --

9 MR. SHEKETOFF: As Defendant's 2. That would be my
10 plan.

11 THE COURT: I'll tell the jury then that it's
12 likely we will come in in the morning and have closing
13 arguments.

14 MS. OLLILA: Good.

15 MR. SHEKETOFF: Thank you.

16 (CONCLUSION OF SIDEBAR)

17 THE COURT: I'm going to send you home for the
18 evening. In the morning at 9 a.m. we will start the day. It
19 is likely to start with closing arguments in the case. So 9
20 a.m. tomorrow. You are under oath to follow my instructions
21 which I will not repeat because I've repeated them to you ad
22 nauseam, but you are still under those instructions. Please
23 follow them. I'll see you in the morning.

24 (IN COURT - NO JURY PRESENT)

25 THE COURT: All right.

1 MR. SHEKETOFF: Your Honor, we've already discussed
2 this, but just for the record I think I have to move for
3 judgment of acquittal on both counts.

4 I'm not going to bore you with my reasons. You've
5 heard me out, you've given me plenty of time to state them,
6 and you've in fact responded to them. But I want to save my
7 rights by actually moving for judgment of acquittal on Counts
8 1 and 2.

9 THE COURT: All right. Having scrutinized all of
10 the evidence in a light most hospitable to the government's
11 theory of the case, I find that a rational fact-finder could
12 conclude beyond a reasonable doubt that the defendant has
13 committed both counts. So that motion is denied.

14 Now, Petrozziello rulings. I want to make sure I
15 have all the declarants. I can actually -- my understanding
16 of the declarants -- let me just go over them.

17 I can tell you that Kalee Couture is going to be
18 out. I didn't hear anything with respect to the first prong
19 of that requirement. And let me give you the list of
20 declarants as I understand them to be, and I want Mr.
21 Sheketoff to add to that if I have forgotten any.

22 All right. Kosmas Koustas, Jeremy Blevens, Charles
23 Fowle, Johnathan Venturini. There was also reference to
24 FNU/LNU, but there really were hardly any statements from
25 him. It was during the conversation with Kosmas Koustas when

1 he was fleeing. There was barely anything that FNU/LNU said.
2 I'm not sure if he's technically one of your declarants,
3 Attorney Sheketoff. I'm not going to treat him as a
4 declarant unless you tell me I should.

5 And then there was UM, unidentified male, 16.
6 There were I believe at least five recorded conversations
7 with UM 16, I believe also referred to as Sieger. And then
8 there was also Cornelius Nakos, one statement primarily made
9 by him. Are there other declarants?

10 MR. SHEKETOFF: Yes.

11 THE COURT: Okay.

12 MR. SHEKETOFF: According to Mr. Sweeney, Andre
13 Watson was a declarant to him.

14 THE COURT: Yes. Thank you.

15 MS. OLLILA: And Dough Boy.

16 THE COURT: I don't remember Dough Boy making
17 statements exactly, did he? Can you remind me, what were
18 Dough Boy's --

19 MS. OLLILA: My recollection is that Mr. Sweeney
20 testified that he was with Andre Watson and Dough Boy, and I
21 know that Andre Watson advised Mr. Sweeney that Alkis Nakos
22 was providing him, Andre Watson, with MDMA. I cannot recall
23 whether Mr. Sweeney said that Dough Boy said the same thing.
24 Dough Boy had owed someone money, and I just can't recall off
25 the top of my head if he said to David Sweeney that that was

1 Alkis Nakos, Judge. I just bring it up because I can't
2 remember.

3 THE COURT: I thought he referenced Dough Boy as
4 owing money but I still dealt with him because he had some
5 cash, but I don't remember Dough Boy making any statements.
6 Do you recall, Mr. Sheketoff?

7 MR. SHEKETOFF: I don't recall any, your Honor.

8 THE COURT: Well, I'm going to withhold on Dough
9 Boy and review my notes, and I would like you to do the same
10 bringing to my attention any actual statements. My memory is
11 that he was described as being present, as being somebody
12 that Mr. Sweeney was dealing with, but I don't recall
13 statements. I do now recall the statements allegedly made by
14 Andre Watson.

15 Now, Kalee Couture, that was a very small -- there
16 was a very small amount of testimony. Obviously I'll
17 instruct the jury to disregard it. It was conversations with
18 I believe Agent Poirier about camps in Canada. I find that
19 there just isn't any evidence that she was part of any
20 conspiracy at all. So I will not -- and I will instruct the
21 jury they are to disregard any statements of Kalee Couture.

22 With respect to all of the others, though, Kosmas
23 Koustas, Jeremy Blevens, Charles Fowle, Johnathan Venturini,
24 UM 16, as well as Andre Watson, I find in light of all the
25 evidence that the Petrozziello conditions, all four, really

1 all five, are met by a preponderance of the evidence with
2 respect to each declarant; that by a preponderance a
3 conspiracy existed; that Mr. Nakos was a part, a member of
4 that conspiracy; the declarant was also a member of the
5 conspiracy; the declarant statement was made during the
6 conspiracy and in furtherance of the conspiracy. And I would
7 repeat those findings for each one of the separate declarants
8 with the exception of Kalee Couture.

9 All right. And we will revisit Dough Boy
10 specifically in the morning.

11 All right. Anything further you would like to put
12 on the record at this stage?

13 MR. SHEKETOFF: Just to save my rights under
14 Petrozziello. I don't want to argue it, your Honor. You
15 obviously have given it thought, but I respectfully disagree.

16 THE COURT: All right. Your objection is noted.
17 And I want to give you each the latest copy of the jury
18 instructions, so if the clerk could just pass those out. The
19 special verdict form might be the best place to start because
20 that's where there's the most radical change and it will
21 reflect our conversation this morning, but -- so I would just
22 start with that, if you would. Now, I'll let you read that
23 and I'll ask you a couple of questions.

24 MS. OLLILA: The special verdict is fine for the
25 United States, your Honor.

1 THE COURT: And we obviously -- Mr. Sheketoff put
2 all kinds of arguments on the record this morning with
3 respect to my jury instructions. With respect to this
4 special verdict form, do you have any objections beyond those
5 that you made this morning?

6 MR. SHEKETOFF: No. Not beyond what I said this
7 morning. I think this verdict form is true to your view of
8 the law, your Honor.

9 THE COURT: I will say, as well, question 2 comes
10 from the Pizzaro decision. So I am in an abundance of
11 caution adding question 2 to comply with the holding of that
12 decision so that there is a finding with respect to the
13 conspiracy at large, with respect to quantity, and then a
14 separate finding with respect to this defendant. It has to
15 be reasonably foreseeable to him that the conspiracy involved
16 that amount. That's the holding in Pizarro, and those two
17 questions reflect that.

18 Okay. You will -- as you go through the jury
19 instructions, you will see other matters reflected in these
20 that we discussed this morning. Obviously read it again very
21 carefully tonight and we'll meet at 8 a.m. to go over final
22 instructions, and then I will have to obviously make any
23 adjustments before we start at 9 a.m., or I could obviously
24 after closings, in the morning break, make further
25 adjustments. So we will meet at 8. I will need a

1 stenographer there.

2 The government has rested.

3 Mr. Sheketoff, are you putting on any evidence?

4 MR. SHEKETOFF: I am not, your Honor, except for
5 the letter from the U.S. Attorney's Office stating that
6 there's a benefit contemplated for Mr. Champagne.

7 THE COURT: Okay. All right. So then -- and
8 there's no disagreement about that exhibit.

9 Are there any stipulations, specific stipulations?
10 I added a paragraph about stipulations. Should I then remove
11 that from the jury instructions?

12 MR. SHEKETOFF: My answer would be yes, but I
13 pledged that I would not argue certain things to the jury
14 such as they didn't prove that this was marijuana or this was
15 MDMA, because I said she could ask any witness that question,
16 I wasn't going to fight about it, and I will be punished
17 during closing. I didn't want to call it a stipulation
18 because --

19 THE COURT: You could just say there's no dispute
20 in your closing.

21 MS. OLLILA: Sure.

22 THE COURT: All right. Well, I'll take that
23 paragraph out if there are technically really no formal
24 stipulations as to evidence.

25 I just feel like there was one other thing I needed

1 to go over. Anything else?

2 MS. OLLILA: Were you going to review with the
3 defendant his decision not to testify, Judge? I don't know
4 whether you typically do that.

5 THE COURT: Well, I assume -- Mr. Sheketoff
6 indicates there's going to be no further evidence and that
7 Mr. Nakos has decided that he's not going to testify. I will
8 give the jury that instruction that they are not obviously in
9 any way to construe that -- he has an absolute right not to
10 testify.

11 Mr. Nakos, you're not going to testify? Is that
12 your decision?

13 THE DEFENDANT: Yeah, I don't believe so.

14 THE COURT: All right.

15 THE DEFENDANT: I do want witnesses, and he's
16 refusing to present any witnesses for me.

17 MR. SHEKETOFF: That should be clear on the record,
18 your Honor. It's not my obligation to listen to my client on
19 who to call as a witness unless it's him. That is my
20 obligation.

21 THE COURT: That is absolutely correct. Okay. All
22 right. So I'll meet counsel at 8 a.m. for final jury
23 instructions and the final Petrozziello ruling on Dough Boy.
24 That shouldn't take very long.

25 And then we'll do hopefully closings right at 9,

1 and then we'll take a break and I'll do jury instructions.

2 And then for alternates I'm going to literally let
3 the jury see myself pick out of a hat so they know it's
4 random -- pick out of a bowl two numbers, and those will be
5 the alternates.

6 MR. SHEKETOFF: Your Honor, is there a time limit
7 on closing arguments?

8 THE COURT: What do you need?

9 MS. OLLILA: I need an hour and ten maybe total.

10 THE COURT: What do you need?

11 MR. SHEKETOFF: I'll never go over an hour.

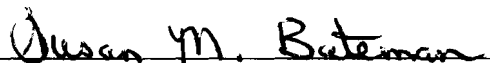
12 THE COURT: That's going to be fine then, and then
13 any rebuttal. Okay. All right. Well, good. I'll see you
14 at 8 a.m.

15 (Jury trial in recess for the day at 4:30 p.m.)
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C E R T I F I C A T E

I, Susan M. Bateman, do hereby certify that the foregoing transcript is a true and accurate transcription of the within proceedings, to the best of my knowledge, skill, ability and belief.

Submitted: 3-31-16


SUSAN M. BATEMAN, LCR, RPR, CRR
LICENSED COURT REPORTER, NO. 34
STATE OF NEW HAMPSHIRE